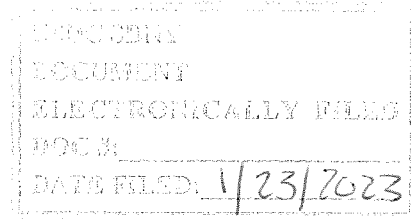


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
CHADSITY JADE HERNANDEZ,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,
Defendant.
-----X**ORDER ADOPTING REPORT
AND RECOMMENDATION**

21 CV 10658 (VB)

Before the Court is Magistrate Judge Judith C. McCarthy's Report and Recommendation ("R&R"), dated December 16, 2022 (Doc. #21), on the parties' cross-motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). (Docs. ##16, 18). Judge McCarthy recommended that plaintiff's motion be denied and defendant's cross-motion be granted, because (i) the Administrative Law Judge ("ALJ") fully developed the record, (ii) the ALJ's decision is supported by substantial evidence, (iii) the ALJ was entitled to rely on the Vocational Expert's opinion because it did not conflict with the Dictionary of Occupational Titles, and (iv) the acting commissioner of social security lawfully ratified the appointments of the ALJ and the Appeals Council under the Federal Vacancies Reform Act.

For the following reasons, the Court adopts the R&R. Plaintiff's motion is DENIED, and defendant's cross-motion is GRANTED.

Familiarity with the factual and procedural background of this case is presumed.

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise objections to the magistrate judge's report and recommendation, but they must be "specific[,] written," and submitted within fourteen days after being served with a copy of the recommended disposition, Fed. R. Civ. P. 72(b)(2); see also 28 U.S.C. § 636(b)(1), or within seventeen days if the parties are served by mail, see Fed. R. Civ. P. 6(d).

Insofar as a report and recommendation addresses a dispositive motion, a district court must conduct a de novo review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. Lewis v. Zon, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).

Neither party objected to Judge McCarthy's thorough and well-reasoned R&R.

The Court has reviewed the R&R and the underlying record and finds no error, clear or otherwise.

CONCLUSION

The R&R is adopted as the opinion of the Court.

Plaintiff's motion for judgment on the pleadings is DENIED.

Defendant's cross-motion for judgment on the pleadings is GRANTED.

The Clerk is instructed to enter Judgment accordingly and close this case.

Dated: January 23, 2023
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge